

November 9, 2009

EX-PARTE COMMENTS FOR PETITION NO. 08-0165

DUE DATE NOVEMBER 9, 2009

GENTLEMEN:

I request that the following points be considered prior to granting approval or denial of the subject petition:

a) Granting the subject petition will be an inappropriate agency action due to the fact that it will deny constitutional rights of the public in regard to local approval processes for basic construction projects, which include antennas and FCC regulated transmitter installations.

b) Failure of federal regulatory oversight of the mortgage industry has played a major role in plummeting home values nationwide. FCC action that removes still more local authority over antenna siting will undercut home values in communities even more. Inappropriate antenna sites devalue adjacent homes. It is the role of local government to determine where the appropriate sites are for wireless infrastructure build-out. Local land use decisions should not be undercut again by federal agency regulations.

c) Wireless systems use the energy grid to broadcast signals constantly, whether or not they are used, resulting in enormous waste of energy and an excessive burden upon the energy grid.

d) Wireless systems broadcast complex, pulse-modulated and often also frequency-modulated microwave radiation that is absorbed maximally by human, animal and plants tissues, since the respective carrier frequencies wavelengths closely approximate body-part size. Living organisms, by their water concentration, act as sponges of microwave radiation. Due to maximal absorption, adverse effects are likewise maximized. The absorbed, modulated microwave radiation at levels from infrastructural antennas at a distance interferes even in the immediate and short-term with basic cell, including neuronal, functions, altering melatonin-serotonin levels and undermining at the whole-organism level cognitive and sleep capacities, immune and cardiac function and more. When multiplied by weeks, months and years of exposure, cancers and other disabling and deadly conditions develop. Considerable toxicologic and epidemiologic study over decades and throughout the world has established the above as scientific fact.

e) When, as FCC advises, numerous antennas are collocated on the same tower, the microwave amplification by vector addition of radiofrequency fields produces an extremely complex radiation environment in which hotspots are unpredictable and biologic disruption is further amplified.

e) The FCC will act on November 18, 2009 on the Cellular Telecommunications and Internet Association (CTIA - the wireless lobbying organization) Petition (FCC Docket 08-165) requesting the FCC to adopt new policies that would place onerous restrictions on local zoning authority as it affects wireless communications antenna siting.

f) The FCC's new policies, if adopted, will essentially gut local governmental zoning processes and stifle citizen input. Granting the CTIA Petition will increase the preemption of local zoning authority for antenna sites. Congress refused to grant this further preemption under the Telecommunications Act of 1996 (TCA). The CTIA wants the green light to circumvent local zoning.

g) Specifically, CTIA has requested the FCC to:

1) Create a "Shot Clock" with a 45 or 75-day deadline for approval of wireless antenna and tower zoning applications;

2) Rule that applications are automatically deemed granted if a local government misses the Shot-Clock deadline. (These proposed rules would curtail any meaningful local governmental review.);

3) Prevent localities from considering the presence of service by other carriers in evaluating an additional carrier's application for an antenna site; (The CTIA is attempting to close a loophole in Section 704 of the TCA which currently allows for consideration of wireless coverage by other carriers in determining if a "significant gap" in coverage exists.); and

4) Preempt any local ordinance that would effectively require a variance for every tower application.

NOTE: Gutting the local zoning variance procedure strikes at the heart of local government control and kills it by removing the zoning mechanism for wireless projects that do not comply, as is typical, with local regulations. Other types of businesses could argue unfair treatment if they, too, are not allowed to skirt variances and override local control!

FCC Chairman Julius Genachowski announced on October 7, 2009 at a CTIA conference that he supports a streamlined antenna-siting process to remove obstacles that delay "robust and ubiquitous wireless deployment." Despite the FCC's purported claim that its new policy will preserve local zoning authority, adoption of any of the CTIA's requested new restrictions will chill the local zoning process on wireless siting and render it toothless.

I request the FCC deny CTIA's Petition for Declaratory Ruling, and stop catering to the cell phone and wireless industries at the expense of the individual taxpayers and local municipalities who have already been severely restricted in their rights regarding local planning and safety. Should the FCC

grant the subject petition, it will have effectively made itself responsible for issuance and approval of local building permits and SAFETY OF THE PLANNED DESIGNS AND CONSTRUCTION PROJECTS (ANTENNAS).

Fiber-optic cable and wired alternatives are safer and far more energy-efficient than the wireless plan for the National Broadband Plan for Our Future. FIBER-OPTIC CABLE is the "green" infrastructure for high-speed broadband access. It is the superior infrastructure for speed, security, bandwidth, and lower energy consumption. Fiber optic cable for internet use requires minimal power for the data to travel in the fiber optic cable while antennas pump out signal 24/7 whether the signal is being used or not. Fiber optic cable is the best internet solution for economic development - with the added benefit of contributing no further radio frequency radiation to our living environment.